

AMENDED IN SENATE MAY 5, 2015  
AMENDED IN SENATE APRIL 22, 2015

**SENATE BILL**

**No. 637**

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**Introduced by Senator Allen**

February 27, 2015

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An act to amend Section 5653 of the Fish and Game Code, and to add Section 13172.5 to the Water Code, relating to dredging.

LEGISLATIVE COUNSEL'S DIGEST

SB 637, as amended, Allen. Suction dredge mining: permits.

Existing law prohibits the use of any vacuum or suction dredge equipment by any person in any river, stream, or lake of this state without a permit issued by the Department of Fish and Wildlife. *Existing law requires, before any person uses any vacuum or suction dredge equipment in any river, stream, or lake of this state, that person to submit an application for a permit for a vacuum or suction dredge to the department specifying certain information.* Existing law requires the department to issue a permit, if the department determines that the use of a vacuum or suction dredge will not be deleterious to fish, upon the payment of a specified fee. *Existing law designates the issuance of permits to operate vacuum or suction dredge equipment to be a project under the California Environmental Quality Act and suspends the issuance of permits and mining pursuant to a permit until the department has completed an environmental impact report for the project as ordered by the court in a specified court action.* Existing law prohibits the use of any vacuum or suction dredge equipment in any river, stream, or lake of this state until the Director of Fish and Wildlife makes a prescribed certification to the Secretary of State, including certifying that new regulations fully mitigate all identified significant

*environmental impacts and that a fee structure is in place that will fully cover all costs to the department related to the administration of the program.*

This bill would ~~instead~~ require the department to issue a permit if the department determines that the use does not cause any significant effects on fish and wildlife and would authorize the department to adjust the specified fee to an amount sufficient to cover all reasonable costs of the department in regulating suction dredging activities. *This bill would prohibit the department from issuing a permit until the permit application is deemed complete, as prescribed.*

Under existing law, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements in accordance with the ~~federal Clean~~ *Federal Water Pollution Control Act* and the Porter-Cologne Water Quality Control Act (state act). The state act, with certain exceptions, requires a waste discharger to file certain information with the appropriate regional board and to pay an annual fee. The state act additionally requires a person, before discharging mining waste, to submit to the regional board a report on the physical and chemical characteristics of the waste that could affect its potential to cause pollution or contamination and a report that evaluates the potential of the mining waste discharge to produce acid mine drainage, the discharge or leaching of heavy metals, or the release of other hazardous substances.

This bill would require, by July 1, 2017, the ~~State Water Resources Control~~ *state* board to establish a permitting process for suction dredge mining and related mining activities in rivers and streams in the state, consistent with requirements of the state act. The bill would require that the regulations, at a minimum, address cumulative and water quality impacts of specified issues. A person who violates these regulations would be liable for an unspecified penalty. The bill would provide that the state board is not prohibited from adopting regulations that would prohibit suction dredge mining, if the state board makes a certain finding relating to water quality objectives, to the extent consistent with federal law. The bill would prohibit these provisions from affecting any other law, including the California Environmental Quality Act and specified provisions relating to streambed alteration requirements.

The bill would specify that a suction dredge contains any of specified components for purposes of permits issued by the ~~Department of Fish and Wildlife~~ *department* and for purposes of the permitting process established by the state board.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 5653 of the Fish and Game Code is amended to read:

5653. (a) The use of a vacuum or suction dredge equipment by a person in a river, stream, or lake of this state is prohibited, except as authorized under a permit issued to that person by the department in compliance with the regulations adopted pursuant to Section 5653.9. Before a person uses a vacuum or suction dredge equipment in a river, stream, or lake of this state, that person shall submit an application for a permit for a vacuum or suction dredge to the department, specifying the type and size of equipment to be used and other information as the department may require.

(b) (1) *The department shall not issue a permit for a vacuum or suction dredge until the permit application is deemed complete. A complete permit application shall include copies of all required permits, including permits required under the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.) and the Water Code, and any other applicable permit required to fully mitigate all identified significant environmental impacts pursuant to regulations adopted under subdivision (b) of Section 5653.1.*

(2) *If the State Water Resources Control Board or the appropriate regional water quality control board determines that no water quality or water rights permit is necessary for the use of a vacuum or suction dredge, a letter stating this determination signed by the Executive Director of the State Water Resources Control Board, the executive officer of the appropriate regional water quality control board, or their designee shall be part of the permit application.*

(3) *For the purpose of the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code), the department shall not deem the permit application complete until the applicant submits all necessary permits and any required letters to the department as part of the permit application.*

~~(b)~~

(c) Under the regulations adopted pursuant to Section 5653.9, the department shall designate waters or areas wherein vacuum or suction dredges may be used pursuant to a permit, waters or areas closed to those dredges, the maximum size of those dredges that may be used, and the time of year when those dredges may be used. If the department determines, pursuant to the regulations adopted pursuant to Section 5653.9, that the use of a vacuum or suction dredge does not cause any significant effects to fish and wildlife, it shall issue a permit to the applicant. If a person operates equipment other than that authorized by the permit or conducts the operation in any waters or area or at any time that is not authorized by the permit, or if any person conducts the operation without securing the permit, that person is guilty of a misdemeanor.

~~(e)~~

(d) (1) Except as provided in paragraph (2), the department shall issue a permit upon the payment, in the case of a resident, of a base fee of twenty-five dollars (\$25), as adjusted under Section 713, when an onsite investigation of the project size is not deemed necessary by the department, and a base fee of one hundred thirty dollars (\$130), as adjusted under Section 713, when the department deems that an onsite investigation is necessary. Except as provided in paragraph (2), in the case of a nonresident, the base fee shall be one hundred dollars (\$100), as adjusted under Section 713, when an onsite investigation is not deemed necessary, and a base fee of two hundred twenty dollars (\$220), as adjusted under Section 713, when an onsite investigation is deemed necessary.

(2) The department may adjust the base fees for a permit described in this subdivision to an amount sufficient to cover all reasonable costs of the department in regulating suction dredging activities.

~~(d)~~

(e) It is unlawful to possess a vacuum or suction dredge in areas, or in or within 100 yards of waters, that are closed to the use of vacuum or suction dredges.

~~(e)~~

(f) For purposes of this section and Section 5653.1, a suction dredge contains any of the following:

(1) A hose that vacuums sediment from a river, stream, or lake.

(2) A motorized pump.

(3) A motorized sluice box.

SEC. 2. Section 13172.5 is added to the Water Code, to read:

13172.5. (a) On or before July 1, 2017, the state board shall establish by regulation a permitting process for suction dredge mining and related mining activities in rivers and streams in the state. The regulations shall be consistent with the requirements of this division and, at a minimum, address cumulative and water quality impacts of each of the following:

(1) Mercury loading to downstream reaches of rivers and streams affected by suction dredge mining.

(2) Methylmercury formation in water bodies.

(3) Bioaccumulation of mercury in aquatic organisms.

(b) A person who violates a regulation adopted pursuant to this section shall be liable in the amount of \_\_\_\_ (\$\_\_\_\_).

(c) Nothing in subdivision (a) shall prohibit the state board from adopting regulations that prohibit suction dredge mining if the state board finds that prohibition is necessary to regulate waste discharges that violate or impair water quality objectives or other criteria under this division, to the extent consistent with federal law. In making this determination, the state board may consider, but is not limited to, soil types, fueling and refueling activities, and horsepower limitations.

(d) This section does not affect any other law, including the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and the Department of Fish and Wildlife's streambed alteration requirements described in Chapter 6 (commencing with Section 1600) of the Fish and Game Code.

(e) For purposes of this section, a suction dredge contains any of the following:

(1) A hose that vacuums sediment from a river, stream, or lake.

(2) A motorized pump.

(3) A motorized sluice box.